

(SPACE BELOW FOR FILING STAMP ONLY)

1 LINDA MILLER SAVITT, SBN 94164  
 PHILIP L. REZNIK, SBN 204590  
 2 BALLARD ROSENBERG GOLPER & SAVITT, LLP  
 500 North Brand Boulevard, Twentieth Floor  
 3 Glendale, California 91203-9946  
 Tel: 818.508.3700; Fax: .818.506.4827

Government Code  
 § 6103; appearance  
 fees not required.

4 AMELIA ANN ALBANO, CITY ATTORNEY, SBN 103640  
 5 CAROL A. HUMISTON, SR. ASST. CITY ATTORNEY, SBN 115592  
 275 E. Olive Avenue  
 6 P.O. Box 6459  
 Burbank, CA 91510  
 7 Tel: 818.238.5704; Fax: 818.238.5724

8 RONALD E. FRANK, SBN 109076  
 ROBERT J. TYSON, SBN 187311  
 9 BURKE, WILLIAMS & SORENSON, LLP  
 444 S. Flower Street, Suite 2400  
 10 Los Angeles, CA 90071  
 Tel: 213.236.0600; Fax: 213.236.2700

11 Attorneys for Defendant CITY OF BURBANK

12  
 13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
 14 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**  
 15

16 WILLIAM TAYLOR,

17 Plaintiff,

18 vs.

19 CITY OF BURBANK and DOES 1 through  
 20 100, inclusive,

21 Defendants.

Case No. BC 422252

[Assigned to Hon. John L. Segal]

**DEFENDANT'S EX PARTE  
 APPLICATION FOR A CONTINUANCE  
 OF TRIAL AND FINAL STATUS  
 CONFERENCE; MEMORANDUM OF  
 POINTS AND AUTHORITIES;  
 DECLARATIONS OF LINDA MILLER  
 SAVITT AND PHILIP L. REZNIK IN  
 SUPPORT THEREOF**

(Filed Concurrently with [Proposed] Order

Date: November 15, 2011

Time: 8:30

Dept.: 50

Action Filed: May 28, 2009

Trial Date: Dec. 6, 2011

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on November 15, 2011 at 8:30 a.m., or as soon  
3 thereafter as the matter may be heard in Department 50 of the above-entitled court, located  
4 at 111 N. Hill Street, Los Angeles, California, Defendant CITY OF BURBANK ("City"),  
5 pursuant to California Rules of Court 3.1204(b) and 3.1332 will move the Court *ex parte*  
6 for an Order continuing the trial date from December 6, 2011 to January 10, 2012 or such  
7 other date as the Court may deem appropriate.

8 This application is made on the grounds that good cause exists for a short  
9 continuance because the City's lead trial counsel, Linda Miller Savitt, is unavailable  
10 between December 7, 2011 and December 9, 2011.

11 This application is based on this Notice and the attached Declarations of Linda  
12 Miller Savitt and Philip L. Reznik and exhibits thereto and upon such further oral and  
13 documentary evidence as may be presented at the time of the hearing.

14  
15 DATED: November 14, 2011

BALLARD ROSENBERG GOLPER & SAVITT, LLP

16  
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18 By: 

PHILIP L. REZNIK

Attorneys for Defendant CITY OF BURBANK  
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BALLARD ROSENBERG GOLPER & SAVITT, LLP  
500 NORTH BRAYNE BOULEVARD, TWENTH FLOOR  
GLENDALE, CALIFORNIA 91203-9946

BALLARD ROSENBERG GOLPER & SAVITT, LLP  
500 NORTH BRAND BOULEVARD, TWENTH FLOOR  
GLENDALE, CALIFORNIA 91203-9946

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Defendant CITY OF BURBANK (the "City") applies *ex parte* for a short (one week) continuance of the dates for the trial and the final status conference ("FSC") herein. The City's lead trial counsel, Linda Miller Savitt, will be unavailable on December 7 through 9, 2011. Ms. Savitt is the President of the Association of Southern California Defense Counsel and in that capacity is required to be in San Francisco on December 7, 8 and 9, 2011 for the Board meeting of the CDC ("California Defense Counsel") and the Northern California Defense Counsel annual meeting and lunch with the Chief Justice. On December 6, 2011, she likely will still be in trial in federal court in a trial scheduled to commence on November 29, 2011. The City is requesting a short continuance which will not prejudice any party, and the City will be substantially prejudiced if this Application is denied, as it has retained Ms. Savitt for the specific purpose of serving as lead trial counsel in this matter. The factors set out in Rule 3.1332 of the California Rules of Court for determining good cause for a continuance weigh heavily in favor of granting the requested continuance of the trial date from December 6, 2011 to January 10, 2012, or such other date as the Court may deem appropriate, with a corresponding continuance of the FSC.

**II. STATEMENT OF FACTS**

This matter is set for trial on December 6, 2011. Linda Miller Savitt was associated into this case by the City for the specific purpose of serving as lead trial counsel. (Savitt Decl. ¶ 2.) Ms. Savitt is also the President of the Association of Southern California Defense Counsel. (Savitt Decl. ¶ 3.) In that capacity, she is required to be in San Francisco on December 7, 8 and 9, 2011 for the Board meeting of the CDC ("California Defense Counsel") and the Northern California Defense Counsel annual meeting. (Savitt Decl. ¶ 4.) In addition, Ms. Savitt is also counsel for the County of Los Angeles in *Robinson v. County of Los Angeles*, a case pending in the U.S. District Court for the Central District of California (Case No. CV 06-2409 GAF). (Savitt Decl. ¶ 5.) That case was originally set for trial on November 1, 2011, but was continued by the district court to November 29, 2011. (Savitt Decl. ¶ 6.) As such, it is likely that Ms. Savitt may still be engaged

1 in that trial on December 6. (Savitt Decl. ¶ 7.) There have been no prior trial continuances in this  
2 matter. (Savitt Decl. ¶ 8.) Ms. Savitt is currently available to commence trial in this matter  
3 on January 3, 2012 or January 10, 2012. (Savitt Decl. ¶ 9.)

4 **III. EX PARTE RELIEF IS APPROPRIATE AND PROPER NOTICE HAS BEEN**  
5 **GIVEN**

6 California Rules of Court, Rule 3.1332(b) provides that a party seeking a continuance of a  
7 trial date can do so by noticed motion or by way of *ex parte* application. With trial set for  
8 December 6, 2011, and the FSC set for November 23, 2011, there is insufficient time for a noticed  
9 motion.

10 Plaintiff was initially given written notice of an *ex parte* appearance on November 14,  
11 2011, by letter of November 7, 2011. (Reznik Decl. ¶ 2, Exh. B). At the request of Plaintiff's  
12 counsel, the appearance was moved to November 15, 2011. This was confirmed via email on  
13 November 9, 2011. (Reznik Decl. ¶ 3, Exh. C.)

14 **IV. THERE IS GOOD CAUSE FOR CONTINUING THE TRIAL.**

15 California Rules of Court, Rule 3.1332, subsections (c) provides, in pertinent part:

16 **"(c) Grounds for continuance**

17 Although continuances of trial are disfavored, each request  
18 for a continuance must be considered on its own merits. The court  
19 may grant a continuance only on an affirmative showing of good  
cause requiring the continuance. Circumstances that may indicate  
good cause include:

20 \*\*\*

21 2. The unavailability of trial counsel because of . . . excusable  
22 circumstances "

23 Subsection (d) of the Rule sets out factors that the Court must consider in ruling on a  
24 motion for a trial continuance. These include (but are not limited to) the following: "(1) The  
25 proximity of the trial date; (2) Whether there was any previous continuance, extension of time, or  
26 delay of trial due to any party; (3) The length of the continuance requested; . . . (5) The prejudice  
27 that parties or witnesses will suffer as a result of the continuance; (8) Whether trial counsel is  
28 engaged in another trial; . . . (10) Whether the interests of justice are best served by a continuance,

1 by the trial of the matter, or by imposing conditions on the continuance; and (11) Any other fact or  
2 circumstance relevant to the fair determination of the motion or application."

3 All of the above factors weigh in favor of granting the instant application. The proximity  
4 of the trial date – less than a month away – weighs in favor of granting relief on an *ex parte* basis.  
5 There have been no prior trial continuances. Defendant is seeking only a four- to five-week  
6 continuance which will not prejudice any party. In fact, the City, which retained Ms. Savitt for the  
7 specific purpose of having her serve as its lead trial counsel in this matter, will be substantially,  
8 unfairly prejudiced if it has to commence trial without her.

9 **V. CONCLUSION**

10 For the reasons stated above, the Court should grant this *ex parte* application and  
11 continue the trial herein to January 10, 2012, or such other date as the Court may deem  
12 appropriate.

13  
14 DATED: November 14, 2011 BALLARD ROSENBERG GOLPER & SAVITT, LLP

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16  
17 By: 

Philip L. Reznik

18 Attorneys for Defendant CITY OF BURBANK  
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DECLARATION OF LINDA MILLER SAVITT

**DECLARATION OF LINDA MILLER SAVITT**

I, LINDA MILLER SAVITT, hereby declare as follows:

1. I am an attorney at law licensed to practice in the State of California and a senior partner at the law firm of Ballard Rosenberg Golper & Savitt, LLP, counsel of record for Defendant CITY OF BURBANK ("City") herein. The facts stated below are personally known to me.

2. I was associated into this case by the City for the specific purpose of serving as lead trial counsel.

3. I am the President of the Association of Southern California Defense Counsel.

4. In that capacity, I am required to be in San Francisco on December 7, 8 and 9, 2011 for the Board meeting of the CDC ("California Defense Counsel") and the Northern California Defense Counsel annual meeting.

5. In addition, I am also counsel for the County of Los Angeles in *Robinson v. County of Los Angeles*, a case pending in the U.S. District Court for the Central District of California (Case No. CV 06-2409 GAF).

6. That case was originally set for trial on November 1, 2011, but was continued by the district court to November 29, 2011.

7. As such, I likely will still be engaged in that trial on December 6, 2011.

8. There have been no prior trial continuances in this matter

9. Attached hereto as Exhibit A is my current trial calendar for 2011-2012. I am currently available to commence trial in this matter on January 10, 2012.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on November 14, 2011 at Glendale, California.



LINDA MILLER SAVITT, declarant

BALLARD ROSENBERG GOLPER & SAVITT, LLP  
500 NORTH BRAND BOULEVARD, TWENTYETH FLOOR  
GLENDALE, CALIFORNIA 91203-9946

DECLARATION OF PHILIP L. REZNIK



**DECLARATION OF PHILIP L. REZNIK**

I, PHILIP L. REZNIK, hereby declare as follows:

1. I am an attorney at law licensed to practice in the State of California and an associate at the law firm of Ballard Rosenberg Golper & Savitt, LLP, counsel of record for Defendant CITY OF BURBANK ("City") herein. The facts stated below are personally known to me.

2. On November 7, 2011, this office was copied on a letter from co-counsel for the City, Ronald E. Frank, to Plaintiff's counsel, Gregory W. Smith, in which he provided notice that Defendant intended to apply *ex parte* to continue the trial and FSC dates "as soon as we can have our new all-purpose judge take official office in Department 50, which will likely be next Monday November 14." A true and correct copy of that letter is attached hereto as Exhibit B.

3. On November 9, 2011, I was copied on an email from Lori Leibman, of this office, to the offices of Plaintiff's counsel confirming that, at Plaintiff's counsel's request, the *ex parte* appearance would be moved to November 15, 2011 at 8:30 am. A true and correct printout of that email is attached hereto as Exhibit C.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 14, 2011 at Glendale, California.

  
PHILIP L. REZNIK

BALLARD ROSENBERG GOLPER & SAVITT, LLP  
500 NORTH BRAND BOULEVARD, TWENTIETH FLOOR  
GLENDALE, CALIFORNIA 91203-9946

EXHIBIT A

**LINDA MILLER SAVITT'S TRIAL LIST**

<b><u>DATE</u></b>	<b><u>TIME</u></b>	<b><u>DEPT.</u></b>	<b><u>CASE</u></b>
11/29/11	8:30 a.m.	USDC - 740	ROBINSON v. COUNTY
12/6/11	8:30 a.m.	50	TAYLOR v. BURBANK
12/7-12/9/11			ADC - NORTHERN CALIF.
1/17/12	10:00 a.m.	51	AYALA v. ABM
2/14/12	9:30 a.m.	28	HECHANOVA v. GATEWAYS
2/14/12	10:00 a.m.	32	LICHTEN v. OHCAL
2/15/12	9:00 a.m.	37	KARAGIOSIAN v. BURBANK
2/22/12	9:30 a.m.	54	DREXLER v. LA COMMUNITY
3/1 & 3/2/12			ASCDC Annual Seminar
3/5/12	8:30 a.m.	69	ADAMS v. BROTMAN
3/13/12	9:30 a.m.	16	ABDUNURYAN v. HEALTH NET
3/14/12	8:30 a.m.	64	KELLEY v. MERLE NORMAN
3/19/12	8:30 a.m.	50	DE MIRA v. CHW
4/1/12 to 4/9/12			OUT
4/9/12	8:30 a.m.	69	MOULTRIE v. CHLA
4/12/12 -4/13/12			SAN ANTONIO
4/16 - 4/17/12	9:00 a.m.		CROWDER v. LLB Arbitration
4/24/12	8:30 a.m.	50	AGUIRRE v. ABM
5/1/12	8:30 a.m.	49	FLORES v. ABM
5/2/12	9:00 a.m.	37	GUILLEN v. BURBANK
5/21/12	9:30 a.m.	Rancho Cucamonga	BRAVO v. ABM

June 2012

**1 MONTH SABBATICAL**

7/2/12	9:30 a.m.	56	CHANG v. MIDWAY
7/9/12	10:00 a.m.	71	LOPEZ v. CHW
7/11/12	9:00 a.m.	37	OMAR CROSS-COMPLAINT
7/16/12	9:30 a.m.	16	CRAWFORD v. LACOE
7/17/12	9:30 a.m.	Santa Monica	ROSS-DUGGAN v. CHW
7/23/12	9:30 a.m.	56	LAYTON v. LACMTA
7/23/12	8:30 a.m.	Long Beach	ARCEO v. ABM/CHAVEZ v. ABM
9/18/12	9:00 a.m.	USDC	MOORE v. COUNTY
10/9/12	9:30 a.m.	33	GILLINS v. HEALTH NET

(Revised 11/8/11)

EXHIBIT B



444 South Flower Street - Suite 2400  
Los Angeles, California 90071-2953  
voice 213.236.0600 - fax 213.236.2700  
www.bwslaw.com

Direct No.: 213.236.2840  
rfrank@bwslaw.com

November 7, 2011

VIA FAX and US MAIL

Gregory W. Smith  
Law Offices of Gregory W. Smith  
9100 Wilshire Boulevard, Suite 345E  
Beverly Hills, CA 90212

Re: William Taylor vs City of Burbank, LASC No. BC 422 252

Dear Greg:

This letter confirms our agreement that the City of Burbank shall have an extension of time through and including November 18, 2011 to serve its responses to Plaintiff's Supplemental Demand for Production of Documents, Supplemental Request for Admission, and Supplemental Interrogatory, all which were served on October 7, 2011. Thank you for your courtesy.

This letter also confirms that we discussed postponing the pending expert depositions noticed by each side in this case, and also postponing the filing dates for motions *in limine* in light of the City's Intention to file a motion to continue the trial and FSC dates. Linda Savitt's office intends to bring an *ex parte* application to continue the trial and FSC as soon as we can have our new all-purpose judge take official office in Department 50, which will likely be next Monday November 14. Please consider this letter to be your *ex parte* notification of that application; we understand that Bill opposes the continuance and that you attend to appear to argue against the continuance.

Next, you and I have briefly met and conferred on some motions *in limine* the City intends to bring, including motions pertaining to the Jette and Rosoff IA materials and Gardiner investigations files the City was ordered to produce after Pitchess motions were granted, Richard Kreisler, and personal privacy issues raised in depositions. The City is contemplating several other motions *in limine* pertaining to peace officer personnel records of non-parties, and pertaining to the admissibility of a number of the matters Plaintiff testified about in his deposition. If the trial and FSC dates are going to be moved, the motion *in limine* filing deadline would also be moved. We would like to reach agreement with you on postponing the filing date for motions *in limine* in light of the case circumstances, the new judge, and the potential postponement of the trial.



Gregory W. Smith  
November 7, 2011  
Page 2

Finally, you and I have also had preliminary discussions on the subject of settlement and the possible use of one of the LASC's voluntary settlement judges to facilitate such discussions. Linda Savitt or I will see about setting up a VSC with one of the available panelists.

Please let me know immediately if the foregoing does not accurately reflect our discovery extension agreement and the substance of our discussions on the other topics described in this letter. And lets discuss stipulating to postpone the motion in limine filing deadline and expert depositions until November 18 (or later) pending the outcome of the motion to continue the trial. Thanks.

Sincerely,

RONALD F. FRANK

CC: Mr. Tyson  
Ms. Humiston  
Ms. Savitt  
Mr. Brizzolara  
Mr. Warshaw

LA #1822-4540-1813 v1



444 South Flower Street - Suite 2400  
Los Angeles, California 90071-2953  
voice 213.236.0600 - fax 213.236.2700  
www.bwsllaw.com

## FACSIMILE MESSAGE

DATE: November 7, 2011

FILE No.: 06147-0015

**To:**

**FAX No.:**

**PHONE No.:**

Gregory W. Smith, Esq.  
Law Offices of Gregory W. Smith

(310) 777-7895

(310) 777-7894

Christopher Brizzolara, Esq.

(310) 656-7701

(310) 394-6447

Carol A. Humiston, Esq.

(818) 238-5724

(818) 238-5707

Linda Miller Savittt, Esq.

(818) 508-4827

(818) 508-3700

Robert Warshaw

(213) 629-7919

(213) 624-1376

FROM: Ronald F. Frank

PHONE No.: 213.236.2840

RE: William Taylor v. City of Burbank

NUMBER OF PAGES WITH COVER PAGE: 3 Original/Copy Will Follow.

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**MESSAGE:**

DATE SENT: \_\_\_\_\_ TIME SENT: \_\_\_\_\_ INITIALS: \_\_\_\_\_

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LA #4815-4205-0569 v1

Los Angeles - Inland Empire - Oakland - Orange County - Palm Desert - Silicon Valley - Ventura County

11/07/11 MON 11:48 [TX/RX NO 6656] 001



EXHIBIT C

BALLARD ROSENBERG GOLPER & SAVITT, LLP  
500 NORTH BRAND BOULEVARD, TWENTIETH FLOOR  
GLENDALE, CALIFORNIA 91201-9946

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

WILLIAM TAYLOR,

Plaintiff,

vs.

CITY OF BURBANK and DOES 1 through  
100, inclusive, ,

Defendants.

Case No. BC 422252

[Assigned to Hon. John L. Segal]

[PROPOSED] ORDER RE APPLICATION  
TO CONTINUE TRIAL DATE

Date: November 15, 2011

Time: 8:30

Dept.: 50

Action Filed: May 28, 2009  
Trial Date: Dec. 6, 2011

On November 15, 2011, Defendant CITY OF BURBANK applied to the Court *ex parte* for an Order continuing the trial in this matter from December 6, 2011 to January 10, 2012 or to such other date as the Court deems appropriate.

THE COURT ORDERS:

That the trial date in this matter be continued from December 6, 2011 to \_\_\_\_\_, 2012;

That the final status conference be continued from November 23, 2011 to \_\_\_\_\_, 2012; IT IS SO ORDERED.

DATED: \_\_\_\_\_

JOHN L. SEGAL

Judge of the Superior Court



LABOR AND EMPLOYMENT LAW  
ON BEHALF OF MANAGEMENT  
AND RELATED LITIGATION

500 NORTH BRAND BOULEVARD  
TWENTIETH FLOOR  
GLENDALE, CALIFORNIA 91203-9946

TELEPHONE  
(818) 508-3700

FACSIMILE  
(818) 506-4827  
(818) 985-8167

E-MAIL  
preznik@brgslaw.com  
(818) 508-3733

DATE/TIME: Monday, November 14, 2011/12:40 PM

REFERENCE #: 0422.04

FROM: Philip L. Reznik

### FACSIMILE TRANSMITTAL LETTER

Please deliver the accompanying facsimile material to:

NAME	COMPANY	FACSIMILE NO.
GREGORY W. SMITH, ESQ.	LAW OFFICES OF GREGORY W. SMITH	310.777.7895
CHRISTOPHER BRIZZOLARA, ESQ.		818.656.7701
RONALD J. FRANK, ESQ.	BURKE WILLIAMS & SORENSON, LLP	213.236.2700
AMELIA ANN ALBANO, ESQ.	BURBANK CITY ATTORNEY'S OFFICE	818.238.5724

RE: *TAYLOR V. CITY OF BURBANK*  
*EX PARTE APPLICATION TO CONTINUE TRIAL DATE*

ITEMS: DEFENDANT'S EX PARTE APPLICATION FOR CONTINUANCE OF TRIAL, ETC. AND  
[PROPOSED] ORDER

MESSAGE: FILE COPIES WILL BE AVAILABLE AT COURT.

Total number of pages including this Transmittal Letter: 21

IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL LESLIE A. REHEIS AT  
(818) 508-3700, EXT. 2145. THANK YOU.

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